

### **REMARKS**

This is in response to the Office Action that was mailed on November 8, 2006. Claims 1, 3-7, 9, 12, 13, 16, 17, 19-21, 23, 25-27, and 31 are cancelled, without prejudice. Claims 2, 8, 10, 11, 14, 15, 18, 22, 24, 28, 32, and 33 are amended to more particularly point out Applicants' invention in order to facilitate a speedy grant of a patent in this case. The recitation of an additional specific compound in claim 22 is based upon working Example 43. No new matter is introduced by this Amendment. Claims 2, 8, 10-11, 14-15, 18, 22, 24, 28-30, 32, and 33 remain pending in the application.

As the Examiner will note, the claims remaining in this application are significantly reduced in scope as compared to the claims among which restriction had been required. It is noted that withdrawn claims 18, 28-30, and 32 all depend from narrowed composition claim 2, which the Examiner is treating on its merits. Accordingly, Applicants respectfully request that the Examiner treat all of the claims remaining in this application on their merits.

Claims 1-13, 16, 24, and 31 were rejected under 35 U.S.C. §103(a) as being unpatentable over US 3,261,794, a patent issued on an application filed in 1959 and naming Maxwell Gordon *et al.* as inventors. The rejection is respectfully traversed. The Gordon *et al.* reference describes 3-fluoromethyl-substituted 1,2,4-benzothiadiazine derivatives that are said to be useful as diuretic agents. However, the Gordon *et al.* reference neither teaches nor suggests any 1,2,4-benzothiadiazine derivative encompassed by generic claim 2 herein in its present form. It goes without saying that the Gordon *et al.* reference neither teaches nor suggests any method of treating a disorder or disease that is responsive to modulation of CNS AMPA receptor complexes as presently claimed. Applicants respectfully submit that none of claims 2, 8, 10, 11, 14, 15, 18, 22, 24, 28-30, 32, or 33 is unpatentable over US 3,261,794.

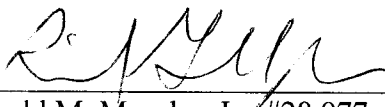
Claims 1-17, 22-24, 31, and 33 were rejected on the ground of obviousness-type double patenting over claims 1-20 of US 6,943,159 B1. The Examiner argues that the first two species

in claim 19 of the '159 patent are the same as the 6<sup>th</sup>-8<sup>th</sup> species in claim 22 of the present application. The 6<sup>th</sup>-8<sup>th</sup> species in claim 22 of the present application to which the Examiner refers are cancelled by the present Amendment. The Examiner argues that the species of claim 33 herein is the same as the 14<sup>th</sup> species in column 94 of the '159 patent. Such is not the case, since the "reference" species is 3-cyclopentyl-7-piperidinosulfonyl-1,2,3,4-tetrahydro-1,2,4-benzothiadiazine-1,1-dioxide, while the species of present claim 33 is 3-cyclopentyl-**6-methyl**-7-piperidinosulfonyl-1,2,3,4-tetrahydro-1,2,4-benzothiadiazine-1,1-dioxide. Nevertheless, in the spirit of cooperation, Applicants file herewith a Terminal Disclaimer, thereby removing double patenting as an issue.

If there are any questions concerning the present application, the Examiner is respectfully requested to contact Richard Gallagher (Reg. No. 28,781) at (703) 205-8008, to conduct an interview in order to expedite future prosecution herein.

Respectfully submitted,

BIRCH, STEWART, KOLASCH & BIRCH, LLP

By  #28,781  
Gerald M. Murphy, Jr., #28,977

GMM/RG

P.O. Box 747  
Falls Church, VA 22040-0747  
(703) 205-8000